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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 August 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 April 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   This Non-final office action is in response to Applicant's amendment filed August 5, 2008. Claims 2, 11, 14, 16 and 19 have been amended. Claims 1-20 are pending.

2.   The previously pending objection to the IDS filed January 10, 2005 has been withdrawn.

    The previously pending objections to the drawings have been withdrawn.

    The previously pending objections to the specification have been withdrawn.

    The previously pending rejections to claims 2-5, 11, 19 and 20 under 35 U.S.C. 112, second paragraph, have been withdrawn.

    The information provided by Applicant in response to the requirement for information as per 37 C.F.R. 1.105(a)(1)(vii) is acknowledged.

3.   Applicant's arguments filed August 5, 2008 have been fully considered but they are not persuasive.

Specification

4.   The abstract of the disclosure is objected to because it is longer than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   Claims 14, 15, 19 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

With respect to independent claim 14, the claim language recites the steps of receiving a first plurality of requests from customers, creating a new supply plan, receiving a second plurality of requests, promising orders from a second plurality of requests, synchronizing a first portion of the first plurality of requests, etc., however the claim language does not include the required tie or transformation.

Claims 15, 19 and 20 are rejected based upon the same rationale, wherein the claim language does not include the required tie or transformation.

7.   Claims 16-18 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Independent claim 16 includes a system defined merely by a supply chain

planning component and an order promising component, which is deemed to

be simply software, with no accompanying hardware components (e.g., a

physical system including inter alia, processor, server, interface, etc.). See

MPEP §2106.01. Dependent claims 17 and 18 are rejected based upon the

same rationale.

Claim Rejections - 35 USC § 102

8.   The text of those sections of Title 35, U.S. Code not included in this action

can be found in a prior Office action.

9.   Claims 1-20 are rejected under 35 U.S.C. 102(b) based upon a public use

or sale of the invention.

Applicants have provided a declaration filed January 10, 2005 by Christine

Chen which seems to indicate that this invention was sold to the public prior

to July 1st 2002.

10.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section
> 122(b), by another filed in the United States before the invention by the applicant for patent or
> (2) a patent granted on an application for patent by another filed in the United States before

the invention by the applicant for patent, except that an international application filed under
the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an
application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

11.   Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ojha et

al. (U.S. Pub. No. 2002/0152104 A1).

Regarding to claim 1, Ojha et al. discloses the method of updating a

supply plan used to process customer requests in an available-to-promise

(ATP) system (paragraph [0003], lines 9-11), the method comprising:

updating a model of a supply chain (i.e. planning information) (paragraph

[0006], lines 13-16 and paragraph [0027], lines 11-19) for one or more

products sold by the ATP system (paragraph [0003], lines 11-14); copying

(i.e. replicating) a current supply plan used by the ATP system to process

customer requests to create a second supply plan (paragraph [0027], lines

19-22); thereafter, receiving a first plurality of customers requests at the ATP

system and processing orders from the requests against the current supply

plan (paragraph [0006], lines 7-9) while running the model of the supply chain

with the second supply plan (i.e. uninterrupted service) as part of a process

that creates a new (i.e. updated) supply plan (paragraph [0008], lines 8-13);

after the new supply plan is created, synchronizing the new supply plan by

processing orders from the first plurality of customer requests scheduled

against the current supply plan into the new supply plan (paragraph [0046],

lines 1-4), wherein the synchronizing process is stopped prior to

synchronizing all the orders in the first plurality of requests into the new

supply plan (instruct operating HA systems to terminate processing, step 216,

and generation of a stop record indicating the last processed order and

termination of operation of operating HA systems, step 218 in figure 5 and ¶

0050); thereafter, temporarily stopping promising orders while synchronizing

all remaining orders from the first plurality of requests not synchronized during

the synchronizing process in the new supply plan (generating a stop record

indicating the last order that was processed, step 218 and processing any

remaining pre-termination orders and update ATP supply information, step

222, as seen in figure 5 and ¶ 0050); and after the remaining orders from the

first plurality of requests are processed, replacing the current supply plan with

the new (i.e. updated) supply plan so that the ATP system processes future

customer requests against the new (i.e. updated) supply plan (paragraph

[0017], lines 6-10 and paragraph [0050], lines 6-12).

Claim Rejections - 35 USC § 103

12.   The text of those sections of Title 35, U.S. Code not included in this action

can be found in a prior Office action.

13.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Ojha et al. (U.S. Pub. No. 2002/0152104 A1) as applied to claim 1 above, and

further in view of Bush Jr. (U.S. Pat. No. 6,486,899 B1).

Regarding to claim 2, Ojha et al. discloses the invention substantially as

claimed. However, Ojha et al. does not disclose changing a pointer to the

new supply plan and setting a flag associated with the new supply plan to

indicate that the new supply plan is available for ATP processing. Bush Jr.

teaches using notifications flags to display logistic information relating to

supply plans (i.e. entities or distribution resources) in the supply chain

(column 5, lines 6-8). Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to combine the

method of Ojha et al. with the feature of changing a pointer to the new supply

plan and setting a flag associated with the new supply plan, as both Ojha et

al. and Bush Jr. are directed to the method of updating a supply plan. The

motivation for doing so would have been to indicate that the new supply plan

is available for ATP processing.

14.   Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ojha et al. (U.S. Pub. No. 2002/0152104 A1) as applied to claim 1

above, and further in view of AMR Consulting White Paper: "Planning for

Tomorrow: A Tactical Approach to Supply Chain Innovation" (hereafter

referred to as AMR Consulting).

        Regarding to claims 3-5, Ojha et al. discloses the invention substantially

as claimed. However, Ojha et al. does not disclose an exception is generated

(as per claim 3) and causes a message (as per claim 4) to be sent to a

planner (as per claim 5) for processing if a promise made against the current

supply plan cannot be made against the new supply plan. However, AMR

Consulting teaches an exception causing a message to be generated (i.e.

automatic notification) and sent to a planner (i.e. decision makers) for

processing if a promise made against the current supply plan cannot be made

against the new supply plan (i.e. when business events diverge from planning

targets) (page 18, paragraph 5). Therefore, it would have been obvious to

one having ordinary skill in the art at the time the invention was made to

combine the method of Ojha et al. with the feature of an exception (as per

claim 3) to cause a message to be generated (as per claim 4) and sent to a

planner for processing (as per claim 5) as taught by AMR Consulting, as both

Ojha et al. and AMR Consulting are directed to the method of updating a

supply plan. The motivation for doing so would have been to notify a planner

if a promise made against the current supply plan cannot be made against the

new supply plan.

15.   Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ojha et al. (U.S. Pub. No. 2002/0152104 A1) as applied to claim 1

above, and further in view of Brichta (U.S. Pat. No. 5,864,483).

Regarding to claim 6 and 7, Ojha et al. discloses the invention

substantially as claimed. However, Ojha et al. does not explicitly disclose

stopping synchronization when it is determined that a predetermined number

of requests still need to be synchronized (as per claim 6), wherein the

predetermined number is calculated by a system based on an average time of

synchronizing each request and a desired system downtime entered by a

planner (as per claim 7). Brichta teaches alerting a planner (i.e. provider)

when services or products are approaching unacceptable levels relative to

predetermined number of requests (i.e. predetermined criteria) (column 1,

lines 61-66), wherein the predetermined number (i.e. predetermined criteria)

is calculated by a system (column 7, lines 10-14) using statistical information

including average time (i.e. mean) (column 2, lines 2-13, column 7, lines 20-

28) based on each request and a desired system downtime (i.e. service

information) (column 7, lines 14-17). Therefore, it would have been obvious

to one having ordinary skill in the art at the time the invention was made to

combine the method of Ojha et al. with the feature of stopping

synchronization (i.e. appropriate action) (column 2, lines 14-17) when it is

determined that a predetermined number of requests still need to be

synchronized (as per claim 6), wherein the predetermined number is

calculated by a system based on an average time (i.e. mean) of

synchronizing each request and a desired system downtime entered by a

planner (i.e. provider) (as per claim 7). The motivation for doing so would be

to synchronize all the number of requests.

16.   Claims 8 and 9 is rejected under 35 U.S.C. 103(a) as being unpatentable

over Ojha et al. (U.S. Pub. No. 2002/0152104 A1) as applied to claim 1

above, and further in view of Syed et al. (U.S. Pat. No. RE39,549 E).

Regarding to claim 8, Ojha et al. discloses the invention substantially as

claimed. However, Ojha et al. does not disclose prior to running the model,

capturing a snapshot of data representing actual sales and promised requests

for use in the creation of the new supply plan. Syed et al. teaches obtaining a

snapshot time from a database server to return data that reflects a database

state associated with the snapshot time (column 1, lines 64-67 to column 2,

lines 1-4). Therefore, it would have been obvious to one having ordinary skill

in the art at the time the invention was made to combine the method of Ojha

et al. with the feature of capturing a snapshot of data representing actual

sales and promised requests as taught by Syed et al., as both Ojha et al. and

Syed et al. are directed to the method of updating a supply plan. The

motivation for doing so would have been to create a new supply plan.

Regarding to claim 9, Ojha et al. discloses the invention substantially as

claimed. However, Ojha et al. does not disclose creating a summary table

from the new supply plan that can be used by the ATP system to quickly

retrieve summarized availability information without computing availability

from more detailed supply and demand tables. Syed et al. teaches relational

database storing data in tables (column 5, lines 12-17). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the

invention was made to combine the method of Ojha et al. with the feature of

creating a summary table (i.e. subset of the table) (column 5, lines 47-52)

from the new supply plan as taught by Syed et al., as both Ojha et al. and

Syed et al. are directed to the method of updating a supply plan. The

motivation for doing so would have been to quickly retrieve summarized

availability information without computing availability from more detailed

supply and demand tables.

17.   Claims 10, 11, 14, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Ojha et al. (U.S. Pub. No. 2002/0152104 A1).

Regarding to claim 10, Ojha et al. discloses the invention substantially as

claimed. Ojha et al. discloses pre-allocating products available (i.e. forecasts

of future customer demand) (paragraph [0003], lines 5-11). However, Ojha et

al. does explicitly teach pre-allocating products available for promising in the

new supply plan. It is common knowledge in the prior art that organizations

previously define business objectives. Therefore, it would have been obvious

to one having ordinary skill in the art at the time the invention was made to

pre-allocate products available for promising to both the current and new

supply plan. The motivation for doing so would be to better meet customer

demand.

Regarding to claim 11, Ojha et al. discloses the invention substantially as

claimed. Ojha et al. discloses after switching (i.e. replacing) (paragraph

[0006], lines 21-22) to the new supply plan, promising orders from the

requests against the new supply plan (paragraph [0004], lines 3-6). However,

Ojha et al. does not explicitly disclose receiving and promising a second

plurality of customers request by the ATP system against the new supply

plan. It is common knowledge in the prior art that a second plurality of

requests is received after the first plurality of request once the supply plan is

switched (i.e. replaced). Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to receive and

promise orders from a second plurality of requests by the ATP system after

the supply plan is switched (i.e. replaced) against the new supply plan. The

motivation for doing so would be to promise customer requests against the

current and new supply plan without interruptions in service.

Regarding to claim 14, Ojha et al. discloses the invention substantially as

claimed. Ojha et al. teaches the method of managing available-to-promise

sales orders (paragraph [0003], lines 1-5), the method comprising: receiving a

first plurality of requests from customers and promising orders (paragraph

[0004], lines 3-6) from the first plurality of requests against a first supply plan

(paragraph [0006], lines 1-7); creating a new supply plan (i.e. modifying)

(paragraph [0006], lines 7-9); receiving requests from customers (i.e.

uninterrupted service) while the new supply plan is being created (paragraph

[0008], lines 8-13); promising orders from the requests against the first supply

plan (paragraph [0004], lines 3-6); synchronizing a first portion of the first

plurality of requests between the first supply plan and the new supply plan

(paragraph [0046], lines 1-4); stopping synchronization after synchronizing

the first portion of the first plurality of requests between the first supply plan

and the new supply plan (instruct operating HA systems to terminate

processing, step 216, and generation of a stop record indicating the last

processed order and termination of operation of operating HA systems, step

218 in figure 5 and ¶ 0050); temporarily stopping processing orders while

processing a second portion of the first plurality of requests between the first

supply plan and the new supply plan and while: processing the second

plurality of requests (generating a stop record indicating the last order that

was processed, step 218 and processing any remaining pre-termination

orders and update ATP supply information, step 222, as seen in figure 5 and

¶ 0050); invalidating (i.e. terminating) the first supply plan and activating (i.e.

take over) the new supply plan (paragraph [0017], lines 6-10 and paragraph

[0050], lines 6-12); receiving requests from customers, and promising orders

from the requests against the new supply plan (paragraph [0004], lines 3-6

and paragraph [0035], lines 15-20). However, Ojha et al. does not explicitly

disclose receiving a second and third plurality of requests from customers,

wherein the second plurality of requests is received after the first plurality of

requests, the third plurality of requests is received after the second plurality of

requests; promising orders from the second plurality of requests against the

first supply plan, and promising orders from the third plurality of requests

against the new supply plan. It is common knowledge in the prior art that a

second plurality of requests is received after the first plurality of request; the

third plurality of requests is received after the second plurality of requests.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to have the second plurality of requests

received after the first plurality of requests, the third plurality of requests

received after the second plurality of requests; and promising orders from the

second plurality of requests against the first supply plan, and promising

orders from the third plurality of requests against the new supply plan

(paragraph [0004], lines 3-6). The motivation for doing so would be to

promise customer requests against both the current and new supply plan.

Regarding to claim 15, Ojha et al. teaches copying (i.e. replicating) the first supply plan and creating the new supply plan from the copy (i.e. replicate) of the first supply plan (paragraph [0027], lines 19-22).

Regarding to claim 19, Ojha et al. teaches the invention substantially as claimed. However, Ojha et al. does not explicitly disclose synchronizing a first subset of the second plurality of requests scheduled against the old supply plan into the new supply plan (i.e. modified plan) by processing the second plurality of request against the new supply plan. It is common knowledge in the prior art that a second plurality of requests is received after the first plurality of request. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to synchronize a first subset of the second plurality of requests scheduled against the old supply plan into the new supply plan (i.e. modified plan) by processing the second plurality of request against the new supply plan (paragraph [0006], lines 1-20). The motivation for doing so would have been to update the supply plan.

Regarding to claim 20, Ojha et al. teaches temporarily stopping promising orders (i.e. not online) (paragraph [0045], lines 6-11 and paragraph [0048], lines 1-4); and synchronizing all remaining requests from the second plurality of requests not synchronized during the synchronizing the first subset (paragraph [0050], lines 12-21).

18.   Claim 12, 13 and 16-18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ojha et al. (U.S. Pub. No. 2002/0152104 A1) as applied to

claim 1 above, and further in view of Aram (U.S. Pub. No. 2002/0072988 A1).

Regarding to claim 12, 13, 16 and 18, Ojha et al. discloses the invention

substantially as claimed. Ojha et al. teaches the method of updating a supply

plan and available-to-promise system for processing customer requests, the

system comprising: a supply chain planning component (i.e. Advanced

Planning and Scheduling engine) configured to allow a planner to update (i.e.

modify) (paragraph [006], lines 1-9) a model of a supply chain (i.e. planning

information) for one or more products sold by the ATP system paragraph

(paragraph [0003], lines 11-14); an order promising component (i.e.

Advanced Planning and Scheduling engine) configured to allow a planner to

update an old supply plan used to process requests with a new supply plan

(paragraph [0006], lines 13-16, paragraph [0008], lines 8-13) by (i) copying

(i.e. replicating) a current supply plan used by the ATP system to process

customer requests to create a second supply plan (paragraph [0027], lines

19-22); (ii) thereafter, receiving a first plurality of customer requests at the

ATP system and promising orders from the first plurality of requests against

the current supply plan (paragraph [0006], lines 7-9) while the ATP system

runs the model of the supply chain process with the second supply plan (i.e.

uninterrupted service) as part of a process that creates a new supply plan

(paragraph [0008], lines 8-13); (iii) after the new supply plan is created,

synchronizing orders from the first plurality of customer requests scheduled

against the current supply plan into the new supply plan (paragraph [0046],

lines 1-4); thereafter, temporarily stopping promising orders from new

customer requests received at the ATP system while checking all remaining

orders from the first plurality of requests not checked during the synchronizing

process against the new supply plan (generating a stop record indicating the

last order that was processed, step 218 and processing any remaining pre-

termination orders and update ATP supply information, step 222, as seen in

figure 5 and ¶ 0050); and (v) after the remaining orders from the first plurality

of requests are processed, switching the new plan supply for the current

supply plan so that the ATP system can process future customer requests

against the new supply plan (paragraph [0017], lines 6-10 and paragraph

[0050], lines 6-12).   However Ojha et al. does not disclose processing a first

subset of the plurality of customer requests against the new supply plan until

a threshold number of orders in the first plurality of requests is reaches (as

per claim 16), stopping the synchronizing process when a number of

outstanding orders not synchronized into the new plan reaches a threshold

number of orders in the first plurality of requests (as per claim 12), wherein

the threshold number is a user defined limit (as per claim 13 and 18). Aram

teaches assisting identification at which there is a risk of a level of

outstanding orders (i.e. customer demand data) falling below a threshold

value (paragraph [0065], lines 1-12), wherein the outstanding orders (i.e.

customer demand data) is a user defined threshold (i.e. input by user)

(paragraph [0066], lines 3-5). Therefore, it would have been obvious for one

having ordinary skill at the time the invention was made to combine the method taught by Ojha et al. with the feature processing a first subset of the plurality of customer requests against the new supply plan until a threshold number of orders in the first plurality of requests is reaches (as per claim 16), stopping the synchronizing process when a number of outstanding orders not synchronized into the new plan reaches a threshold number of orders in the first plurality of requests (as per claim 12), wherein the threshold number is a user defined limit (as per claim 13 and 18) as taught by Aram, as both Ojha et al. and Aram are directed to the method of updating a supply plan. The motivation for doing so would be to synchronize all orders into the new supply plan.

Regarding to claim 17, Ojha et al. discloses a demand planning component (i.e. demand fulfillment engine) configured to allow a planner to create a demand plan (paragraph [0019], lines 7-14 and paragraph [0024], lines 10-14) that can be used by the supply chain planning component to model a supply chain (paragraph [0019], lines 14-18).

Response to Arguments

19.   In the Remarks, with respect to the requirement for disclosure, Applicant argues that the products disclosed and sold, as seen in the Chen declaration filed January 10, 2005, do not include one or more elements of the claims. Applicant then goes on to allege which elements of independent claims 1, 14 and 16 the product purportedly does not disclose.

The Examiner respectfully disagrees, since Applicant seems to have disregarded several portions of the Chen declaration that seem extremely pertinent to the elements of the independent claims Applicant alleges were not disclosed. Namely, the Chen declaration recites, on page 2, "d. Plan 2 is then updated with the new and changed demand requests that were promised under Plan 1 during the creation of Plan 2. The new and changed demand requests from Plan 1 are copied directly into Plan 2. All demand associated with the new and changed records in Plan 1 (including demand, supply and resource requirements) are copied directly into Plan 2. Thus, all demand associated with the changed records in Plan 2 is overwritten by the Plan 1 information and the latest supply and capacity picture in Plan 2 is not considered," "e. While Plan 2 is being updated, new and changed demand requests continue to be processed under Plan 1. At some point, Plan 1 becomes unavailable so that the updates to Plan 2 with the new and changed records can finish processing," and "f. After Plan 2 has been updated with all of the new and changed records from Plan 1, Plan 2 is activated as the new supply plan for order promising." These portions of the Chen declaration, while not matching the claim language verbatim, seem to disclose all the claim elements Applicant allege are missing from the sold product. As such, the 35 U.S.C. 102(b) rejection based upon a public use or sale of the invention is maintained.

With respect to independent claims 1, 14 and 16, Applicant argues that Ojha et al fails to disclose copying a current supply plan used by the ATP

system to process customer requests to create a second supply plan. The

Examiner respectfully disagrees with Applicant's interpretation of that portion

of Ojha et al (i.e., ¶ 0027). Ojha et al discloses "...the primary services

provided by primary HA system 20a with an associated DF engine 22a may

include *processing customer orders for products from external ordering*

systems 40 and generating promises in response to these orders. In general,

the primary services involve transactions that change the state of an HA

system 20. For example, a promise generated by primary HA system 20a that

allocates a certain amount of the ATP supply to a customer is a state-

changing transaction since the ATP supply has changed and needs to be

updated" (emphasis added). As a result, replicating state change

information, equates to replicating primary services that involve transactions

that change the state of an HA. As such, and contrary to Applicant's

assertion, Ojha et al indeed disclose copying a current supply plan used by

the ATP system to process customer requests to create a second supply

plan.

Applicant also argues that Ojha et al fails to disclose wherein the

synchronizing process is stopped prior to synchronizing all the orders in the

first plurality of requests into the new supply plan. The Examiner respectfully

disagrees with Applicant's interpretation of Ojha et al. Ojha et al discloses

instruct operating HA systems to terminate processing, step 216, and

generation of a stop record indicating the last processed order and

termination of operation of operating HA systems, step 218, as seen in figure

5 and ¶ 0050. As such, Ojha et al indeed discloses wherein the synchronizing process is stopped prior to synchronizing all the orders in the first plurality of requests into the new supply plan.

Lastly, Applicant argues that Ojha et al fails to disclose temporarily stopping promising orders while synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process in the new supply plan. The Examiner respectfully disagrees with Applicant's interpretation of Ojha et al. Ojha et al disclose generating a stop record indicating the last order that was processed, step 218 and processing any remaining pre-termination orders and update ATP supply information, step 222, as seen in figure 5 and ¶ 0050. As such, Ojha et al indeed disclose temporarily stopping promising orders while synchronizing all remaining orders from the first plurality of requests not synchronized during the synchronizing process in the new supply plan.

Conclusion

20.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Andre Boyce/
Primary Examiner, Art Unit 3623
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